

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

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ISaac RAPISURA, on behalf of  
himself and all other  
similarly situated; ,

No. 2:22-cv-00455 WBS AC

Plaintiff,

v.

BMW OF NORTH AMERICA, LLC, a  
Delaware limited liability  
company; and DOES 1 through  
50, inclusive,

Defendants.

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STATUS (PRETRIAL SCHEDULING) ORDER

After reviewing the parties' Joint Status Report (Docket No. 12-1), the court held a Status (Pretrial Scheduling) Conference on July 5, 2022. In consultation and agreement with the parties, the court makes the following findings and orders.

I. SERVICE OF PROCESS

All named defendants have been served, and no further

1 service is permitted without leave of court, good cause having  
2 been shown under Federal Rule of Civil Procedure 16(b).

3 II. JOINDER OF PARTIES/AMENDMENTS

4 Plaintiff's counsel represented at the Status  
5 Conference and in the parties' joint status report that plaintiff  
6 intends to file an amended complaint alleging an additional cause  
7 of action. (Corrected Joint Scheduling Report at 3.) Plaintiff  
8 has 30 days from the date of this order to file an amended  
9 complaint.

10 No further joinder of parties or amendments to  
11 pleadings will be permitted except with leave of court, good  
12 cause having been shown under Federal Rule of Civil Procedure  
13 16(b). See Johnson v. Mammoth Recreations, Inc., 975 F.2d 604  
14 (9th Cir. 1992).

15 III. JURISDICTION/VENUE

16 Jurisdiction is predicated upon the Class Action  
17 Fairness Act ("CAFA"), 28 U.S.C. § 1332(d), because this is a  
18 putative class action in which the amount in controversy exceeds  
19 \$5,000,000 and at least one member of the putative class is a  
20 citizen of a different state than the defendant. Venue is  
21 undisputed and hereby found to be proper.

22 IV. DISCOVERY

23 The parties agree to serve the initial disclosures  
24 required by Federal Rule of Civil Procedure 26(a)(1) on or before  
25 July 15, 2022.

26 In their joint status report, the parties stipulated to  
27 bifurcating discovery into two phases. However, at the Status  
28 Conference the parties withdrew that stipulation.

1           The parties shall disclose experts and produce reports  
2 in accordance with Federal Rule of Civil Procedure 26(a)(2) by no  
3 later than August 15, 2023. With regard to expert testimony  
4 intended solely for rebuttal, those experts shall be disclosed  
5 and reports produced in accordance with Federal Rule of Civil  
6 Procedure 26(a)(2) on or before September 15, 2023.

7           All discovery, including depositions for preservation  
8 of testimony, is left open, save and except that it shall be so  
9 conducted as to be completed by October 16, 2023. The word  
10 "completed" means that all discovery shall have been conducted so  
11 that all depositions have been taken and any disputes relevant to  
12 discovery shall have been resolved by appropriate order if  
13 necessary and, where discovery has been ordered, the order has  
14 been obeyed. All motions to compel discovery must be noticed on  
15 the magistrate judge's calendar in accordance with the local  
16 rules of this court and so that such motions may be heard (and  
17 any resulting orders obeyed) not later than October 16, 2023.

18 V. MOTION HEARING SCHEDULE

19           All motions, including the motion for class  
20 certification, but except motions for continuances, temporary  
21 restraining orders, or other emergency applications, shall be  
22 filed on or before December 4, 2023. All motions shall be  
23 noticed for the next available hearing date. Counsel are  
24 cautioned to refer to the local rules regarding the requirements  
25 for noticing and opposing such motions on the court's regularly  
26 scheduled law and motion calendar.

27 VI. FINAL PRETRIAL CONFERENCE

28           The Final Pretrial Conference is set for February 12,

1 2024, at 1:30 p.m. in Courtroom No. 5 or via videoconference.  
2 The Courtroom Deputy will notify the parties prior to the  
3 Conference whether it will be held in person or via  
4 videoconference. The conference shall be attended by at least  
5 one of the attorneys who will conduct the trial for each of the  
6 parties and by any unrepresented parties.

7 Counsel for all parties are to be fully prepared for  
8 trial at the time of the Pretrial Conference, with no matters  
9 remaining to be accomplished except production of witnesses for  
10 oral testimony. Counsel shall file separate pretrial statements,  
11 and are referred to Local Rules 281 and 282 relating to the  
12 contents of and time for filing those statements. In addition to  
13 those subjects listed in Local Rule 281(b), the parties are to  
14 provide the court with: (1) a plain, concise statement which  
15 identifies every non-discovery motion which has been made to the  
16 court, and its resolution; (2) a list of the remaining claims as  
17 against each defendant; and (3) the estimated number of trial  
18 days.

19 In providing the plain, concise statements of  
20 undisputed facts and disputed factual issues contemplated by  
21 Local Rule 281(b) (3)-(4), the parties shall emphasize the claims  
22 that remain at issue, and any remaining affirmatively pled  
23 defenses thereto. If the case is to be tried to a jury, the  
24 parties shall also prepare a succinct statement of the case,  
25 which is appropriate for the court to read to the jury.

26 **VII. TRIAL SETTING**

27 The jury trial is set for April 9, 2024 at 9:00 a.m.  
28 The parties estimate that the trial will last 12 to 17 days if

1 the court grants plaintiff's motion for class certification. If  
2 the court denies plaintiff's motion for class certification, the  
3 parties estimate that the trial will last five to seven days.

4 **VIII. SETTLEMENT CONFERENCE**

5 A Settlement Conference with a magistrate judge will be  
6 set at the time of the Pretrial Conference. Counsel are  
7 instructed to have a principal with full settlement authority  
8 present at the Settlement Conference or to be fully authorized to  
9 settle the matter on any terms. At least seven calendar days  
10 before the Settlement Conference counsel for each party shall  
11 submit a confidential Settlement Conference Statement for review  
12 by the settlement judge. The Settlement Conference Statements  
13 shall not be filed and will not otherwise be disclosed to the  
14 trial judge.

15 **IX. MODIFICATIONS TO SCHEDULING ORDER**

16 Any requests to modify the dates or terms of this  
17 Scheduling Order, except requests to change the date of the  
18 trial, may be heard and decided by the assigned Magistrate Judge.  
19 All requests to change the trial date shall be heard and decided  
20 only by the undersigned judge.

21 **IT IS SO ORDERED.**

22 Dated: July 12, 2022



23 **WILLIAM B. SHUBB**  
24 **UNITED STATES DISTRICT JUDGE**

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